

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RUTH A. HUNTER, *et al.*,

Plaintiffs,

v.

Case No. 2:18-cv-01097

Judge Edmund A. Sargus

Chief Magistrate Judge Elizabeth P. Deavers

RHINO SHIELD, *et al.*,

Defendants.

**ORDER and
REPORT AND RECOMMENDATION**

This matter is before the Court for consideration of the failure of Defendant Dgebuadze to file a response to the Court's Order from October 31, 2019, directing him to Show Cause as to why the Clerk should not enter default against him. (ECF No. 110.)

This action was filed on September 21, 2018. (ECF No. 1.) The docket reflects that Defendant Dgebuadze waived service of summons. (ECF No. 38). Defendant Dgebuadze filed a Motion to Dismiss on October 19, 2018. (ECF No. 5.) Thereafter, Plaintiffs filed an Amended Complaint (ECF No. 18), and Defendant Dgebuadze filed another Motion to Dismiss on December 17, 2018 (ECF No. 39). This Motion to Dismiss was granted in part and denied in part. (ECF No. 90.) On August 8, 2019, Attorneys Patrick H. Boggs and John P. Miller moved to withdraw as counsel for Defendant Dgebuadze, asserting that they had been unable to make contact with Defendant Dgebuadze. (ECF No. 80.) The Court granted the Motion to Withdraw on September 12, 2019. (ECF No. 87.) On September 4, 2019, Plaintiffs moved to compel discovery from Defendant Dgebuadze. (ECF No. 85.)

Beginning on September 24, 2019, mail to Defendant Dgebuadze began to be returned as undeliverable. (ECF Nos. 89, 97, 104, 108, 109, 113). The Court held a status conference on October 3, 2019, for which Defendant Dgebuadze failed to appear. (ECF Nos. 93, 101.) As a result, Defendant Dgebuadze was ordered to file a status report detailing the status of the litigation from his perspective and verifying his address. (ECF No. 98.) Notably, the Court directed that the Order be sent to Defendant Dgebuadze at an address in Indiana. (*Id.*) That correspondence was not returned as undeliverable. Defendant Dgebuadze, however, did not respond to this Order. On October 31, 2019, the Court ordered Defendant Dgebuadze to show cause why the Clerk should not enter default against him for failing to obey Court orders or to keep his address updated, again directing that the Order be sent to him at the address in Indiana. (ECF No. 110.) The Court cautioned Defendant Dgebuadze that failure to comply with the Order could result in default judgment against him. (*Id.*)

To date, Defendant Dgebuadze has not filed anything in response to the Order to Show Cause. Under the present circumstances, it is therefore **RECOMMENDED** that the Court direct the Clerk to enter default against Defendant Dgebuadze and, once default is entered, that Plaintiff be permitted to move for default judgment against this Defendant. Plaintiffs' Motion to Compel Discovery from Defendant Dgebuadze (ECF No. 85) is **DENIED AS MOOT** in light of this recommendation.

PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Response to objections must be filed within fourteen (14) days after being served with a copy.
Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g., Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that “failure to object to the magistrate judge’s recommendations constituted a waiver of [the defendant’s] ability to appeal the district court’s ruling”); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court’s denial of pretrial motion by failing to timely object to magistrate judge’s report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waiver. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) (“[A] general objection to a magistrate judge’s report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal”) (citation omitted)).

The Clerk is **DIRECTED** to forward a copy of this Order by regular and certified mail, and note such on the docket, to Defendant Dgebuadze at the following address:

Aleksandre Dgebuadze
1233 N. Downey Avenue
Indianapolis, IN 46219-3008

IT IS SO ORDERED.

Date: November 20, 2019

/s/ Elizabeth A. Preston Deavers
ELIZABETH A. PRESTON DEAVERS
CHIEF UNITED STATES MAGISTRATE JUDGE